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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,635	03/09/2001	Tadamasa Kitsukawa	50P4371	8537
7590	11/03/2005		EXAMINER	
John L. Rogitz Rogitz & Associates 750 B Street, Suite 3120 San Diego, CA 92101			MANNING, JOHN	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/802,635	Applicant(s) KITSUKAWA, TADAMASA	
	Examiner John Manning	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/11/05 and 8/2/05</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al. (US Pat No 5,914,746) in view of Breslauer et al. (US Pat No 6,637,027) further in view of Kwoh et al. (US Pat No 5,382,983) and further in view of Watson (US Pat No 5,289,271).

In regard to claim 1, Matthews discloses a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers. The claimed step of "establishing an access restriction table for at least one consumer, the access restriction table listing plural virtual channels" is met by Figure 2, Item 32. "STB 10 includes means for associating each virtual channel number with a program from headend 12. In the described embodiment, such means comprises a virtual channel table 32 having entries for a plurality of virtual channel numbers. An entry for a particular virtual channel number includes a designation of an available program from.

Art Unit: 2614

the headend which is to be associated with the virtual channel number" (Col 4, Lines 43-50). The claimed step of "enabling the consumer to use a television to access content associated with a virtual channel" is met by Figure 3. "FIG. 3 is a diagrammatic illustration of virtual channel table 32. In the example given, table 32 contains 500 entries, for virtual channel numbers 1 through 500. The channels are arranged in order. A viewer can increment or decrement the virtual channel number to move or "surf" between channels. When incrementing above the last virtual channel number, the first entry becomes current. When decrementing below the first virtual channel number, the last entry becomes current" (Col 4, Lines 51-59). Further, "Virtual channels 4, 121, 122, and 500 are associated with other illustrated examples of executable applications 46 which, when selected, are to be executed at STB 10" (Col 5, Lines 6-9). The Matthews reference fails to explicitly disclose, "selectively restricting access to content using the access flags" and "each access flag indicating whether the channel can be accessed". Breslauer teaches "selectively restricting access to content using the access flags" and "each access flag indicating whether the channel can be accessed" so as to allow parents to control the multimedia content that their child accesses (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with "selectively restricting access to content using the access flags" and "each access flag indicating whether the channel can be accessed" for the stated advantage. The aforementioned combined teaching fails to explicitly disclose restricting content access based on user ID. Kwoh teaches restricting content access based on user ID so as to clearly identify users that have the right to

Art Unit: 2614

access particular content. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with content access based on user ID for the stated advantage. The aforementioned combined teaching fails to explicitly disclose recording a portion of the content accessed and a time of access record and billing the customer based on the on the record. Watson teaches recording a portion of the content accessed and a time of access record and billing the customer based on the on the record so as to enable subscribers to be charged a fee based upon their actual usage rather than a flat rate. "The invention is an apparatus for (1) recording the specific channels to which the device is tuned; and (2) the periods of time for which it is tuned to each respective channel; and (3) for periodically reporting the information, in time units allocated to each channel, to the originator of the cable signal; (4) all without participation by the individual cable user; and (5) without the necessity of intrusion into the individual turning circuit" (Col 3, Lines 54-61). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with recording a portion of the content accessed and a time of access record and billing the customer based on the on the record for the stated advantage.

4. Claims 2-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al. in view of Breslauer et al. and further in view of Watson.

In regard to claim 2, Matthews discloses enabling a consumer to use a television to access content provided by an online service and a television signal source (See Figure 3). "A viewer can designate a particular service, whether it is a broadcast television signal or an online shopping service, simply by designating a virtual channel

Art Unit: 2614

number" (Col 2, Lines 35-37). Clearly, Matthews discloses virtual channel correlating to online services. Matthews discloses the correlation between services and a virtual channel number as evidenced by Figure 3. The reference, however, is silent with respect to the online services being a web site (with a corresponding address).

Breslauer teaches the inclusion websites in an access control system so prevent the unauthorized access inappropriate material from multiple sources (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage.

Matthews fails to explicitly disclose recording a portion of the content accessed and a time of access record and billing the customer based on the on the record. Watson teaches recording a portion of the content accessed and a time of access record and billing the customer based on the on the record so as to enable subscribers to be charged a fee based upon their actual usage rather than a flat rate. "The invention is an apparatus for (1) recording the specific channels to which the device is tuned; and (2) the periods of time for which it is tuned to each respective channel; and (3) for periodically reporting the information, in time units allocated to each channel, to the originator of the cable signal; (4) all without participation by the individual cable user; and (5) without the necessity of intrusion into the individual turning circuit" (Col 3, Lines 54-61). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with recording a portion of the content accessed and a time of access record and billing the customer based on the on the record for the stated advantage.

Claim 3 is met by that discussed above for the method of claim 2.

In regard to claim 5, as discussed for claims 2, Breslauer discloses restricting access to content using an "access flag" or indicator in order to allow parents to control the content that their child accesses.

In regard to claim 7, Watson discloses storing the user access information in storage element 34. Storage element stores information in an organized fashion, hence storage element 34 meets the limitation of a database.

In regard to claim 8, Watson discloses retrieving the access record from the database. "The information of a positive reception by receiver 26 and the time measured by counter 30 are then transmitted to a storage element 34. The indication of a particular frequency and the time units during which the particular frequency is received by cable usage box 12 is transmitted from storage element 34 to output element 28. Output element 28 provides appropriate formatting for a digital word, which is in turn modulated with an appropriate radio frequency for transmission of the stored information. Control module 32 periodically directs output element 28 to transmit the appropriately formatted information through trunk cable 20 upon request to the origination center 14" (Col 5-6, Lines 61-7). The subscriber is billed based on the access record; therefore the billable content has been determined.

Claim 9 is met by that discussed for the method of claim 2.

Claims 4 and 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al. in view of Breslauer et al. and further in view of Watson and further in view of Linehan (US Pat Pub No 2004/0249726).

In regard to claims 4, the combined teaching discloses enabling a consumer to use a television to access content provided by an online service and a television signal source with a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers where the access of content is recorded. The combined teaching is silent with respect to billing the owner of the content accessed. Linehan teaches billing the owner of accessed content so as to generate revenue for the cable provider (See Paragraph 0033). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with billing the owner of accessed content for the stated advantage.

In regard to claim 10, Matthews discloses a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers. The claimed limitations of "at least one interactive television system server", "at least one television signal source" and "at least one interactive television" are met by Figure 1 and 2. "FIG. 1 shows pertinent components of an interactive entertainment cable distribution network comprising a plurality of subscriber interface units or STBs 10 connected to receive programs from a remote headend 12. STB 10 is used in conjunction with an audio/video display device or television receiver 14 and a hand-held remote control unit or infra-red keypad 16. One environment for the invention is in a hybrid fiber-optic/coax cable distribution system employing digital switching technologies such as asynchronous transfer mode (ATM) for bi-directional communications with individual subscribers. The headend in such a system is capable of supplying a number of different services or programs, ranging from traditional



Art Unit: 2614

broadcast television, to movies-on-demand, to online shopping, banking, and information services.” (Col 2-3, Lines 61-8). Matthews discloses virtual channel correlating to online services. Breslauer teaches the inclusion websites in an access control system so prevent the unauthorized access inappropriate material from multiple sources (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage. Matthews is silent with respect to a billing system. Watson teaches a billing system so as to generate revenue for the cable company. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with a billing system for the stated advantage. The aforementioned combined teaching fails to disclose discriminating between public sites and private sites. Linehan teaches discriminating between public sites and private sites so as to allow the cable company to charge a merchant web site (See Paragraph 0033). The billing is based on a user making a purchase on a merchant web sit, which discriminated it, with respect to billing. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with discriminating between public sites and private sites for the stated advantage.

In regard to claims 11-12, the claimed limitation of “logic means for enabling a consumer to use a television to access content provided by at least one Web server and at least one television signal source” is met by that discussed for the system of claim 10. Watson teaches recording a portion of the content accessed and a time of access record and billing the customer based on the on the record. “The invention is an

Art Unit: 2614

apparatus for (1) recording the specific channels to which the device is tuned; and (2) the periods of time for which it is tuned to each respective channel; and (3) for periodically reporting the information, in time units allocated to each channel, to the originator of the cable signal; (4) all without participation by the individual cable user; and (5) without the necessity of intrusion into the individual turning circuit" (Col 3, Lines 54-61).

Claim 13 is met by that discussed for claim 10.

In regard to claim 14, as discussed for claims 10, Breslauer discloses restricting access to content using an "access flag" or indicator in order to allow parents to control the content that their child accesses.

Claim 15 is met by that discussed for the method of claim 10.

In regard to claim 16-18, Watson discloses storing the user access information in storage element 34 and subsequently retrieving the information. Storage element stores information in an organized fashion, hence storage element 34 meets the limitation of a database. "The information of a positive reception by receiver 26 and the time measured by counter 30 are then transmitted to a storage element 34. The indication of a particular frequency and the time units during which the particular frequency is received by cable usage box 12 is transmitted from storage element 34 to output element 28. Output element 28 provides appropriate formatting for a digital word, which is in turn modulated with an appropriate radio frequency for transmission of the stored information. Control module 32 periodically directs output element 28 to transmit the appropriately formatted information through trunk cable 20 upon request to the

Art Unit: 2614

origination center 14" (Col 5-6, Lines 61-7). The subscriber is billed based on the access record; therefore the billable content has been determined.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM  
October 27, 2005



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600